

**REMARKS**

Applicant respectfully requests favorable reconsideration of the present application, as amended.

Applicant would like to thank the Examiner for the courtesies extended to Applicant's Representatives in telephonic interviews on July 7 and July 22, 2009, and in a personal interview on August 25, 2009. The substance of the interviews is incorporated in these remarks.

Claims 1-7, 19-21, 23-35, 37-39, 41, and 52-69 are currently pending. Claims 18, 20, 36, 40, and 42-51 have been previously canceled. Claims 70 and 71 have been added.

Claims 1, 2, 6, 7, 12, 14, 15, and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Diamond (US 6,898,907) in view of Applicant's disclosure (page 8, third paragraph). Without acceding to the outstanding rejection, Independent Claims 1 and 14 have been amended to recite Applicant's invention with greater particularity.

Claim 1 has been amended to recite, *inter alia*:

“spraying a layer of an elastomeric material to form a blast resistant panel of a predetermined thickness in the range of about 100 mil to less than 250 mil; and

once cured, securing said blast resistant panel to a wall of said structure so that the blast resistant panel extends from at least two opposing edges of the wall of said structure with a first of said opposing edges being adjacent a top of an outer perimeter of the wall of said structure and a second of said opposing edges being adjacent a bottom of the outer perimeter of the wall of said structure.”

The Examiner's assertion that Diamond '907, and specifically elements “920A or 920B only, not both layers 920B and 920A” (emphasis added) show the “spraying a layer of an elastomeric material to form a blast resistant panel of a predetermined thickness in the range of about 100 mil to less than 250 mil” is improper and without basis. As argued in Applicant's previous submissions, layers 920A and 920B are two separate layers that

are required to make up the complete embodiment of the invention shown in FIG. 14 of Diamond '907. Therefore, there is no teaching, suggestion, or motivation in Diamond '907 that would lead one of skill in the art to deconstruct the invention in Diamond '907 as suggested by the Examiner. See, *Carston Manufacturing Co. v. Cleveland Golf Company*, 242 F.3<sup>rd</sup> 1376 (Fed Cir. 2001) – in holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in a way that would produce the claimed invention. In addition, by deconstructing the invention in Diamond '907 to use only one half of the invention as suggested by the Examiner, the Examiner has rendered the invention in Diamond '907 to be inoperative for its intended purpose, since the minimum required thickness for any embodiment of the invention in Diamond '907 is 0.5 inches or 500 mil, which is twice the thickness recited in Claim 1. "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2<sup>nd</sup> 900, 221 USPQ 1125 (Fed. Cir. 1984)" (MPEP § 2143.01). Therefore, the rejections based on Diamond are improper, and Applicant respectfully requests that they be withdrawn and a Notice of Allowance of all pending claims be issued.

Regardless, Diamond '907 also does not teach or suggest forming a "a blast resistant panel of a predetermined thickness in the range of about 100 mil to less than 250 mil; and . . . securing said blast resistant panel to a wall of said structure so that the blast resistant panel extends from at least two opposing edges of the wall of said structure with a first of said opposing edges being adjacent a top of an outer perimeter of the wall of said structure and a second of said opposing edges being adjacent a bottom of the outer

perimeter of the wall of said structure.” Instead, Diamond ‘907 forms a compressible structure with a minimum thickness of 0.5 inches (500 mil) that is to be temporarily positioned over glass panes in a window that is disposed in a wall in a building to cushion and absorb forces from high winds and wind-borne debris to protect the glass panes from shattering and damage (*see*, Diamond ‘907, Paragraphs [0003] and [0009]). However, even if we assume the Examiner’s assertion of a single layer with a thickness of 0.25 inches (250 mil) is correct, Claim 1 now recites a range that is less than 0.25 inches, which is outside of the range disclosed in Diamond ‘907. As a result, Diamond ‘907’s compressible structure not only does not extend from at least two opposing sides of the wall of the structure, i.e., from a first of said opposing edges being adjacent a top of an outer perimeter of the wall of said structure and a second of said opposing edges being adjacent a bottom of the outer perimeter of the wall of said structure, as recited in Claim 1, it also does not disclose the panel thickness range of from about 100 mil to less than 250 mil.

While the invention in Diamond ‘907 operates to temporarily protect the glass pane from damage (i.e., breaking) due to storms and wind-borne debris, it is **not** a blast resistant panel as recited in Claim 1. In fact, the compressible structure in Diamond ‘907 would itself become shrapnel, if an explosion as described in the instant Application were to occur near a building with the compressible structure only covering the glass panes in a wall. There is no teaching or suggestion in Diamond ‘907 that the compressible structure therein is a blast resistant panel having a thickness in the range of about 100 mil to less than 250 mil or that the compressible structure extends from at least two opposing edges of the wall of said structure with a first of said opposing edges being adjacent a top of an outer perimeter of the wall of said structure and a second of said opposing edges being

adjacent a bottom of the outer perimeter of the wall of said structure. Therefore, the §103(a) rejection of Claim 1 is believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103(a) rejection of Claim 1 and Claims 2, 6, 7 and 12 that depend therefrom.

Regarding Claim 14, Claim 14 as currently amended recites, *inter alia*:

“a cured layer of a sprayed elastomeric material having a predetermined thickness in the range of about 100 mil to less than 250 mil, and

fastener elements for securing said cured layer to a wall of a structure so that the cured layer extends from at least two opposing edges of the wall of said structure with a first of said opposing edges abutting a top of an outer perimeter of the wall of said structure and a second of said opposing edges abutting a bottom of the outer perimeter of the wall of said structure,

said blast-resistant panel being to withstand an explosive blast having a peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more without breaking.”

In addition to the deficiencies discussed above in relation to Claim 1, Diamond fails to teach or suggest a blast-resistant panel to withstand an explosive blast having a peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more without breaking. Therefore, for at least the reasons given above for Claim 1, the rejection of Claim 14 is also believed to be overcome, and the Examiner is respectfully requested to formally withdraw the rejection of Claim 14 and claims 15 and 19 that depend therefrom.

Accordingly, the Examiner is respectfully requested to formally withdraw the Section 103(a) rejection of and issue a Notice of Allowance for Claims 1 and 14, as well as their respective dependents.

Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diamond ‘907 in view of Applicant’s disclosure (page 8, third paragraph) and further in view of Fyfe (United States Patent Number 6,806,212) and both depend from Claim 1.

Applicant respectfully traverses the rejection. Applicant's disclosure – to the extent that it may be properly applied to the rejection – and Fyfe, both individually and in combination, fail to make up for the deficiency of Diamond '907 and also fail to teach or suggest all of the elements of Claim 1. Therefore, for at least those reasons given above in relation to Diamond '907 for independent Claim 1, the §103(a) rejection of Claims 3 and 8 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 3 and 8.

Claims 4, 5, 9, 10, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diamond '907 in view of Applicant's disclosure (page 8, third paragraph) and further in view of Fyfe and variously depend from independent Claims 1 and 14. Applicant respectfully traverses the rejection. Applicant's disclosure – to the extent that it may be properly applied to the rejection – and Fyfe, alone or in combination, fail to make up for the deficiency of Diamond '907 and also fail to teach or suggest all of the elements of Claims 1 and 14. Therefore, for at least those reasons given above in relation to Diamond '907 for independent Claims 1 and 14, the §103(a) rejection of Claims 4, 5, 9, 10, 20 and 21 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 4, 5, 9, 10, 20 and 21.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diamond '907 in view of Applicant's disclosure (page 8, third paragraph) and further in view of Makami et al. (United States Patent Number 4,478,895) and both depend from independent Claim 1. Applicant respectfully traverses the rejection. Applicant's disclosure – to the extent that it may be properly applied to the rejection – and Makami et al., alone or in combination, fail to make up for the deficiency of Diamond '907 and also

fail to teach or suggest all of the elements of Claim 1. Therefore, for at least those reasons given above in relation to Diamond ‘907 for independent Claim 1, the § 103(a) rejection of Claims 11 and 13 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 11 and 13.

Claim 16 is rejected under 35 USC 103(a) as being unpatentable over Diamond ‘907 in view of Applicant’s disclosure (page 8, third paragraph) and further in view of Fyfe and depends from independent Claim 14. Applicant respectfully traverses the rejection. Applicant’s disclosure – to the extent that it may be properly applied to the rejection – and Fyfe, alone or in combination, fail to make up for the deficiency of Diamond ‘907 and also fail to teach or suggest all of the elements of Claim and 14. Claim 16 contains similar language to that of Claims 3 and 8, therefore, for at least those reasons given above in relation to Diamond ‘907 for independent Claim 14 and dependent Claims 3 and 8, the § 103(a) rejection of Claim 16 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claim 16.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Diamond ‘907 in view of Applicant’s disclosure (page 8, third paragraph) and further in view of Makami et al. and depends from independent Claim 14. Applicant respectfully traverses the rejection. Applicant’s disclosure – to the extent that it may be properly applied to the rejection – and Makami et al., alone or in combination, fail to make up for the deficiency of Diamond ‘907 and also fail to teach or suggest all of the elements of Claim 14. Therefore, for at least those reasons given above in relation to Diamond ‘907 for independent Claim 14, the § 103(a) rejection of Claim 23 is also believed to be overcome.

Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claim 23.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Diamond '907, Applicant's disclosure page 8 and Fyfe and further in view of Makami et al. and ultimately depends from independent Claim 14. Applicant respectfully traverses the rejection. Applicant's disclosure – to the extent that it may be properly applied to the rejection – and Fyfe and Makami et al., alone or in combination, fail to make up for the deficiency of Diamond '907 and also fail to teach or suggest all of the elements of Claim 14. Therefore, for at least those reasons given above in relation to Diamond '907 for independent Claim 14, the § 103(a) rejection of Claim 24 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claim 24.

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diamond '907 in view of Applicant's disclosure, Fyfe, and Makami et al. and further in view of Benedict et al. (United States Patent Number 5,681,612) and ultimately depend from independent Claim 14. Applicant respectfully traverses the rejection. Applicant's disclosure – to the extent that it may be properly applied to the rejection – and Fyfe, Makami et al. and Benedict et al., alone or in combination, fail to make up for the deficiency of Diamond and also fail to teach or suggest all of the elements of Claim 14. Therefore, for at least those reasons given above in relation to Diamond '907 for independent Claim 14, the § 103(a) rejection of Claims 25 and 26 are also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 25 and 26.

Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being anticipated by United States Patent Number 5,347,775 to Santos in view of Diamond '907 and Applicant's disclosure page 8, and Claim 17 depends from Claim 14. Applicant respectfully believes that the amendments to Claim 14 overcome the rejection. The Examiner admits that Santos fails to teach or suggest all of the elements of Claim 14 and, as discussed above in relation to Claims 1 and 14, the Examiner's deconstruction of Diamond '907 renders it inoperative for its intended purpose. Even if one were to accept Examiner's improperly based assertion that it "would have been an obvious matter of engineering design" to vary the thickness a "little more/less than 250 mil" Diamond '907 does not teach or suggest a panel thickness that is less than 500 mil (Diamond column 7, line 30). In addition, Claim 14 as currently amended recites, *inter alia*, "a cured layer of a sprayed elastomeric material having a predetermined thickness in the range of about - 100 mil to less than 250 mil," "the blast-resistant panel extends from at least two opposing edges of the wall of said structure with a first of said opposing edges abutting a top of an outer perimeter of the wall of said structure and a second of said opposing edges abutting a bottom of the outer perimeter of the wall of said structure," and "said blast resistant panel being to withstand an explosive blast having a peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more without breaking," which neither Santos nor Diamond '907 teach or suggest. Therefore, for at least those reasons given above in relation to Diamond '907 for independent Claims 1 and 14, the § 103(a) rejection of Claims 14 and 17 are also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 14 and 17.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Number 6,269,597 to Haas in view of United States Patent Number 5,811,719 to Madden Jr., United States Patent Number 5,242,207 to Carson et al. and Applicant's disclosure page 8, and Claim 28 depends from independent Claim 27. Applicant has amended Claim 27 to overcome the rejection.

Claim 27 has been amended and now recites, *inter alia*:

"one or more flexible, blast-resistant panels having a predetermined thickness in a range between about 100 mil and less than 250 mil and constructed of an elastomeric material sprayed onto a fabric reinforcing layer,

said one or more flexible, blast-resistant panels having a steel channel fastened around a periphery thereof; and

a plurality of fasteners adapted to fasten said steel channel and said one or more flexible, blast-resistant panels to a wall of said structure so as to cover the wall of the structure from a top of an outer perimeter of the wall to a bottom of the outer perimeter of the wall and from a left side of the outer perimeter of the masonry wall to a right side of the outer perimeter of the wall with said one or more flexible, blast-resistant panels,

said one or more flexible, blast-resistant panels being to withstand an explosive blast having a peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more without breaking."

The Examiner admits that Haas fails to teach or suggest all of the elements of Claim 27. In addition, Madden Jr. and Carson et al., alone or in combination, fail to teach all of the elements of Claim 27, at least as presently amended. Therefore, the § 103(a) rejection of Claims 27 and 28 are also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the § 103 rejection of Claims 27 and 28.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haas in view of Madden Jr., Carson et al. and Applicant's disclosure page 8, and further in view of United States Patent Number 6,907,811 to White, and Claim 29 depends from independent Claim 27. Applicant respectfully traverses the rejection. The Examiner

admits that Haas fails to teach or suggest all of the elements of Claim 27. In addition, Applicant's disclosure – to the extent that it may be properly applied to the rejection – Madden Jr., Carson et al., and White, alone or in combination, fail to teach or suggest all of the elements of Claim 27. Therefore, for at least those reasons given above for independent Claim 27, the § 103(a) rejection of Claim 29 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claim 29.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haas in view Diamond '907 and Applicant's disclosure page 8. Applicant has amended Claim 30 to overcome the rejection.

Independent Claim 30 as currently amended recites, *inter alia*:

“a flexible, blast-resistant panel of a sprayed elastomeric material having a predetermined thickness in the range of about 100 mil to less than 250 mil;

a channel attached around a periphery of the flexible, blast-resistant panel; and

a plurality of fasteners to fasten said channel to a wall of a structure, the flexible, blast-resistant panel sized to extend across and cover an area between opposing sides of the wall of the structure with a first of said opposing sides abutting a top of an outer perimeter of the wall of said structure and a second of said opposing sides abutting a bottom of the outer perimeter of the wall of said structure

said flexible, blast-resistant panel being to resist an explosive blast having peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more, and said flexible, blast-resistant panel being to impede passage through said blast-resistant panel of wall fragments resulting from the explosive blast.”

In contrast, as described above for Claim 27, Haas, Diamond '907, and Applicant's disclosure – to the extent that it may be properly applied to the rejection – alone or in combination, do not teach or suggest forming “a flexible blast resistant panel of a sprayed elastomeric material having a predetermined thickness in the range of about 100 mil to less than 250 mil” that is “sized to extend across and cover an area between

opposing sides of the wall of the structure with a first of said opposing sides abutting a top of an outer perimeter of the wall of said structure and a second of said opposing sides abutting a bottom of the outer perimeter of the wall of said structure” and that is “to resist an explosive blast having peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more,” and “to impede passage through said blast-resistant panel of wall fragments resulting from an explosive blast,” as recited in Claim 30, and, as discussed above in relation to Claims 1 and 14, the Examiner’s deconstruction of Diamond ‘907 renders it inoperative for its intended purpose. Therefore, the §103(a) rejection of independent Claim 30 is believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103(a) rejection of Claim 30.

Claims 31-35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haas in view of Diamond ‘907 and Applicant’s disclosure page 8 and further in view of Madden Jr., and Claims 31-35 and 37 depend from independent Claim 30. Applicant respectfully traverses the rejection. Diamond ‘907, Applicant’s disclosure – to the extent that it may be properly applied to the rejection – and Madden Jr., alone or in combination, fail to make up for the deficiency of Haas and also fail to teach or suggest all of the elements of Claim 27, and, as discussed above in relation to Claims 1 and 14, the Examiner’s deconstruction of Diamond ‘907 renders it inoperative for its intended purpose. Therefore, for at least those reasons given above in relation to independent Claims 1, 14, 27 and 30, the §103(a) rejection of Claims 31-35 and 37 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 31-35 and 37.

Claims 38, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haas in view of Diamond '907 and further in view of Fyfe and Claim 38 depends from independent Claim 30 and Claims 39-41 depend from Claim 38. Applicant respectfully traverses the rejection. Diamond '907 and Fyfe fail to make up for the deficiency of Haas and also fail to teach or suggest all of the elements of Claim 30, and, as discussed above in relation to Claims 1 and 14, the Examiner's deconstruction of Diamond '907 renders it inoperative for its intended purpose. Therefore, for at least those reasons given above in relation to Haas for independent Claims 1, 14 and 30, the §103(a) rejection of Claims 38-41 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 38-41.

Claims 52 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haas in view of Madden Jr., Diamond '907, Fyfe and Applicant's disclosure page 8, and Claim 55 depends from Claim 52. Applicant respectfully traverses the rejection.

Independent Claim 52 recites, *inter alia*:

"a cured, blast-resistant panel of a sprayed elastomeric material having a fabric reinforced layer embedded therein, the cured, blast-resistant panel having a predetermined thickness between about 100 mil and less than 250 mil, a percent elongation at break in a range of about 400-800%, the fabric reinforcing layer being substantially planar and including warp and fill yarns defining an open grid pattern with openings of up to about 0.5 inches by 0.25 inches and a tensile strength of about 1200 psi by 1200 psi; and

a steel channel subsystem configured to be attached around a periphery of the cured panel and the steel channel subsystem and the periphery of the cured panel fastenable to a wall of a structure so as to cover the wall of the structure from a top of an outer perimeter of the wall to a bottom of the outer perimeter of the wall with the cured, blast-resistant panel."

Contrary to the Examiner's assertions, at a minimum, there is no teaching or suggestion in Haas, Madden Jr., Diamond '907 or Fyfe that would motivate one of skill in the art to create the combination, or to believe that the "storm window panel" in Haas is

blast-resistant, or that Madden Jr. discloses the fiber layer being an open grid pattern.

“The mere fact that the references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)” (see, MPEP §2143.01). In the present case, the prior art does not teach or suggest the desirability of the claimed combination. Indeed, one of ordinary skill in the art would not look to Fyfe to modify Haas or Diamond in an attempt to create Applicant’s claimed invention.

Applying the flexible nature of the elastomeric material in Fyfe to the rigid panels of Haas or Diamond would result in a structure that would, in the event of a blast, elastically deform into the glass pane, causing breakage of the very item the reference intended to protect. Likewise, “[i]t is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious.” (See, *In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ2d 1780, \_\_\_, (Fed. Cir. 1992), citing *In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991)). Despite this prohibition, hindsight is exactly what the Examiner used to “piece together” this rejection.

As can be readily seen from the above discussion, Madden Jr., Diamond ‘907, Fyfe, or Applicant’s disclosure – to the extent that it may be properly applied to the rejection – alone or in combination, fail to make up for the deficiency of Haas and also fail to teach or suggest all of the elements of Claim 52. Therefore, the Haas, Madden Jr. Diamond ‘907 and Fyfe combination fails to teach or suggest Applicant’s claimed invention as recited in Claim 52. Accordingly, the Examiner is respectfully requested to formally withdraw the §103(a) rejection of Claim 52 and Claims 53-55 depending therefrom.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haas in view of Madden Jr., Diamond '907, Applicant's disclosure page 8, and Fyfe and further in view of United States Patent Number 4,562,666 to Young, III, and Claim 53 depends from independent Claim 52. Applicant respectfully traverses the rejection. The "channel system 17" alleged by the Examiner is actually a "square washer 17" (*see*, column 2, line 65) that is neither a "channel subsystem" nor is it "attached around a periphery of the cured panel," as recited in Claim 53. In addition, Madden Jr., Diamond '907, Applicant's disclosure – to the extent that it may be properly applied to the rejection – Fyfe, and Young, III fail to make up for the deficiency of Haas and also fail to teach or suggest all of the elements of Claim 52. For at least the reasons stated here and those reasons given above for independent Claim 52 in relation to the applied references, the §103(a) rejection of Claim 53 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claim 53.

Claim 54 is rejected under 35 USC 103(a) as being unpatentable over Haas in view of Madden Jr., Diamond '907, Applicant's disclosure page 8, and Fyfe, and Claim 54 depends from independent Claim 52. Applicant respectfully traverses the rejection. For at least those reasons given above for independent Claim 52 in relation to the applied references, the §103(a) rejection of Claim 54 is also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claim 54.

Claim 56 is rejected under 35 USC 103(a) as being unpatentable over Carson et al. in view of Sato (U.S. Patent No. 4,730,023) and Applicant's disclosure page 8. Applicant has amended Claim 56 to overcome the rejection.

Independent Claim 56 has been amended to recite, *inter alia*:

“once cured, securing said blast resistant panel to an interior surface of an exterior wall in a room of said structure so that the blast resistant panel extends from at least two opposing edges of the exterior wall of said structure with a first of said opposing edges abutting a top of an outer perimeter of the wall of said structure and a second of said opposing edges abutting a bottom of the outer perimeter of the wall of said structure, the blast resistant panel being adapted to prevent shrapnel from entering the room after the wall is subjected to an explosion, the explosion impacting said exterior wall first, and then impacting said blast resistant panel.”

Carson does not teach or suggest “securing said blast resistant panel to an interior surface of an exterior wall in a room of said structure so that the blast resistant panel extends from at least two opposing edges of the exterior wall of said structure with a first of said opposing edges abutting a ceiling of said structure and a second of said opposing edges abutting a floor of said structure, the blast resistant panel being adapted to prevent shrapnel from entering the room after the wall is subjected to an explosion, the explosion impacting said exterior wall first, and then impacting said blast resistant panel,” as recited in Claim 56. In addition, Sato fails to make up for the deficiency of Carson and also fails to teach or suggest all of the elements of Claim 56. Therefore, the Carson and Sato combination fails to teach or suggest “securing said blast resistant panel to an interior surface of an exterior wall in a room of said structure so that the blast resistant panel extends from at least two opposing edges of the exterior wall of said structure with a first of said opposing edges abutting a top of an outer perimeter of the wall of said structure and a second of said opposing edges abutting a bottom of the outer perimeter of the wall of said structure, the blast resistant panel being adapted to prevent shrapnel from entering the room after the wall is subjected to an explosion, the explosion impacting said exterior wall first, and then impacting said blast resistant panel,” as currently recited in Claim 56.

Therefore, the §103(a) rejection of Claim 56 is believed to be overcome.

Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claim 56.

Claims 57, 66 and 69 are rejected under 35 USC 103(a) as being unpatentable over Carson et al. in view of Sato (U.S. Patent No. 4,730,023) and Applicant's disclosure page 8. Applicant has amended Claim 57 to overcome the rejection.

Independent Claim 57 has been amended to recite, *inter alia*:

“predetermined thickness in the range of about 100 mil to less than 250 mil;  
a channel attached around a periphery of the flexible, blast-resistant panel;  
and  
a plurality of fasteners to fasten said channel to a wall of a structure, the flexible, blast-resistant panel sized to extend across and cover an area between opposing sides of the wall of the structure with a first of said opposing sides abutting a top of an outer perimeter of the wall of said structure and a second of said opposing sides abutting a bottom of the outer perimeter of the wall of said structure, and the flexible, blast-resistant panel being adapted to prevent shrapnel from entering the room after the wall is subjected to an explosion having a peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more.”

Carson et al. does not teach or suggest either the blast resistant panel “having a predetermined thickness in the range of about 100 mil to less than 250 mil” or having “the flexible, blast-resistant panel sized to extend across and cover an area between opposing sides of the wall of the structure with a first of said opposing sides abutting a top of an outer perimeter of the wall of said structure and a second of said opposing sides abutting a bottom of the outer perimeter of the wall of said structure, and the flexible, blast-resistant panel being adapted to prevent shrapnel from entering the room after the wall is subjected to an explosion having a peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more,” as recited in Claim 57. In addition, Sato fails

to make up for the deficiency of Carson and also fails to teach or suggest all of the elements of Claim 57. Therefore, Carson, Sato, and Applicant's disclosure – to the extent that it may be properly applied to the rejection – in combination fails to teach or suggest “the blast resistant panel “having a predetermined thickness in the range of about 100 mil to less than 250 mil” or having “the flexible, blast-resistant panel sized to extend across and cover an area between opposing sides of the wall of the structure with a first of said opposing sides abutting a top of an outer perimeter of the wall of said structure and a second of said opposing sides abutting a bottom of the outer perimeter of the wall of said structure, and the flexible, blast-resistant panel being adapted to prevent shrapnel from entering the room after the wall is subjected to an explosion having a peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more,” as recited in Claim 57. Accordingly, the Examiner is respectfully requested to formally withdraw the §103(a) rejection of Claim 57.

Therefore, the §103(a) rejection of Claim 57 and dependent Claims 66 and 69 are also believed to be overcome. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 57, 66 and 69.

Claims 64 and 65 are rejected under 35 USC 103(a) as being unpatentable over Carson et al. in view of Sato (U.S. Patent No. 4,730,023) and Applicant's disclosure page 8 and further in view of Fyfe. Claims 64 and 65 depend from independent Claim 57. Applicant respectfully traverses the rejection. For at least those reasons given above for independent Claim 57 in relation to Carson et al., Sato and Applicant's disclosure, the §103(a) rejection of Claim 54 is also believed to be overcome. In addition, Fyfe fails to make up for the deficiencies discussed above and also fails to teach or suggest all of the

elements of Claim 57. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 64 and 65.

Claims 67 and 68 are rejected under 35 USC 103(a) as being unpatentable over Carson et al. in view of Sato (U.S. Patent No. 4,730,023) Applicant's disclosure page 8 and further in view of Madden Jr. Claims 67 and 68 depend from independent Claim 57. Applicant respectfully traverses the rejection. For at least those reasons given above for independent Claim 57 in relation to Carson et al., Sato and Applicant's disclosure, the §103(a) rejection of Claim 54 is also believed to be overcome. In addition, Madden Jr. fails to make up for the deficiency of Carson et al. and Sato and also fails to teach or suggest all of the elements of Claim 57. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 67 and 68.

The rejections of Claims 56 and 63; 58-60; 61 and 62; 57, 66 and 69; 64 and 65; and 67 and 68 in paragraphs 23 through 28 are merely rehashes of combinations of references applied against Claims 56 and 57. Therefore, Applicant respectfully traverses all of the rejections. For at least those various reasons given above in relation to independent Claims 56 and 57, the §103(a) rejection of Claim 54 is also believed to be overcome. In addition, all of the new combinations of references fail to make up for the deficiencies of the primary references and also fail to teach or suggest all of the elements of Claims 56 and/or 57. Accordingly, the Examiner is respectfully requested to formally withdraw the §103 rejection of Claims 56 and 63; 58-60; 61 and 62; 57, 66 and 69; 64 and 65; and 67 and 68.

Claims 58-63 depend from independent Claim 56 and Claims 64-69 depend from independent Claim 57. Therefore, for at least those reasons given above for Claims 56 and 57, respectively, Claims 58-63 and Claims 64-69 are believed to be allowable.

Claims 70 and 71 have been added to provide more comprehensive protection for Applicant's invention and are believed to be allowable at least for the reason discussed previously with respect to Claim 30. Note, for example, that independent Claim 70 recites a system for improving blast resistance of a structure, the system including:

"a flexible, blast-resistant panel of a sprayed elastomeric material having a predetermined thickness in the range of about 100 mil to less than 250 mil;

a channel attached around a periphery of the flexible, blast-resistant panel; and

a plurality of fasteners to fasten said channel to a wall of said structure, the flexible, blast-resistant panel sized to extend across and cover an area between opposing sides of the wall of said structure with a first of said opposing sides abutting a top of an outer perimeter of the wall of said structure, a second of said opposing sides abutting a bottom of the outer perimeter of the wall of said structure, a third of said opposing sides abutting a left side of the outer perimeter of the wall of said structure, and a fourth of said opposing sides abutting a right side of the outer perimeter of the wall of said structure,

said plurality of fasteners passing through the channel and through the periphery of the flexible, blast-resistant panel to secure the system to the wall.

The applied references neither disclose nor suggest a system such as that recited in Claim 70.

Claim 71 recites, *inter alia*, the system having a flexible, blast-resistant panel to resist an explosive blast having peak incident overpressure of about 17 psi or more and a reflected pressure of about 51 psi or more, and to impede passage through the blast-resistant panel of wall fragments resulting from the explosive blast. Claim 71 depends from Claim 70 and is allowable at least for the reasons discussed previously with respect to Claim 70.

Therefore, all of the grounds of rejection under 35 U.S.C. § 103(a) are believed to be overcome and withdrawal of the rejections is respectfully requested. Accordingly, Applicant believes that the claims are now allowable and respectfully requests that the Examiner issue a Notice of Allowance for all of the currently pending claims.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T3572-908375US01) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

Date: September 14, 2009

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